



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Roy K. Greene

Respondent Name

Valley Forge Insurance Company

MFDR Tracking Number

M4-17-1325-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

January 9, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Conclusion of CCH. Not complete yet!"

Amount in Dispute: \$39,074.73

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Carrier continues to contend that there has not been a final resolution as to any compensability on this completely denied claim ... At no time prior to the filing of this MDR has the carrier received a request for reimbursement from the claimant."

Response Submitted by: The Law Office of Brian J. Judis

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 28, 2015 – January 6, 2017	Chiropractic Services, Hyperbaric Treatments, MRI, Injections	\$39,074.73	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets out the procedure for Medical Fee Dispute Resolution.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §133.270 sets out the procedures for reimbursement of health care expenses incurred by the injured employee.
4. 28 Texas Administrative Code §141.1 sets out the procedures for Requesting and Setting a Benefit Review Conference.

Issues

1. Did the requestor submit a request for reimbursement to the insurance carrier in accordance with 28 Texas Administrative Code §§133.270?
2. Does the medical fee dispute contain documentation to support that the services in question contain unresolved issues of compensability?
3. Did the requestor submit documentation to support that the compensability issues were resolved prior to the submission of the dispute?
4. What is the appropriate dispute resolution process for resolving issues of compensability?
5. Is the dispute eligible for review?

Findings

1. Roy K. Greene is seeking reimbursement for expenses related to chiropractic services, hyperbaric treatments, MRI, and injections. 28 Texas Administrative Code §133.270 states, in relevant part,
 - (a) An injured employee may **request reimbursement from the insurance carrier** [emphasis added] when the injured employee has paid for health care provided for a compensable injury, unless the injured employee is liable for payment as specified in:
 - (1) Insurance Code §1305.451, or
 - (2) Section 134.504 of this title (relating to Pharmaceutical Expenses Incurred by the Injured Employee).
 - (b) The injured employee's request for reimbursement shall be legible and shall include documentation or evidence (such as itemized receipts) of the amount the injured employee paid the health care provider.

The Law Office of Brian J. Judis stated in its position statement on behalf of Valley Forge Insurance Company (Valley Forge) that "At no time prior to the filing of this MDR has the carrier received a request for reimbursement from the claimant." Review of the submitted documentation does not support that the request for reimbursement was submitted to Valley Forge in accordance with 28 Texas Administrative Code §§133.270 prior to filing a request for medical fee dispute resolution.

2. The Law Office of Brian J. Judis stated in its position statement on behalf of Valley Forge that "Carrier continues to contend that there has not been a final resolution as to any compensability on this completely denied claim." Submitted documentation included a DWC Form PLN-1, *DENIAL OF COMPENSABILITY/LIABILITY AND REFUSAL TO PAY BENEFITS*, dated November 24, 2015. This document supports that a dispute of compensability exists for the claim in question.
3. 28 Texas Administrative Code §133.305(b) requires that compensability disputes be resolved prior to the submission of a medical fee dispute for the same services. Review of the submitted documentation does not support that this issue was resolved prior to submission of the dispute in question.
4. The Division hereby notifies the requestor that the appropriate process to resolve the issues of compensability, including disputes or disagreements among the parties over whether the medical services in question were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1. As a courtesy to the requestor, instructions on how to file for resolution of the compensability issue are attached.
5. Because the services in question involve an unresolved issue of compensability, the services are not eligible for medical fee dispute resolution. 28 Texas Administrative Code §133.307(f)(3) provides that a dismissal is not a final decision by the Texas Department of Insurance, Division of Workers' Compensation (Division). The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code §133.307. 28 Texas Administrative Code §133.307(c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals, on the compensability dispute.

DISMISSAL

M4-17-1325-01 is hereby dismissed in accordance with §133.307(f)(3)(C).

SIGNED this 16th day of March 2017

Laurie Garnes

Medical Fee Dispute Resolution Officer

RIGHTS AND RESPONSIBILITIES

28 Texas Administrative Code §133.307(f)(3) states that a dismissal is not a final decision by the division. The requestor has the right to submit a new medical fee dispute after the compensability issue is resolved. The requestor is responsible for filing for medical fee dispute no later than 60 days after the date the requestor receives the final Division decision. The 60-day filing requirement described in 28 Texas Administrative Code §133.307(c)(1)(B)(i) replaces the one-year filing deadline in those cases where a final decision regarding compensability is made.

HOW TO FILE FOR RESOLUTION OF COMPENSABILITY

An injured worker that chooses to pursue resolution of a compensability issue should submit the following **to the DWC field office handling the claim:**

➤ Completed DWC Form-045 *Request to Schedule a BRC*, including:

- Section III. PARTY REQUESTING
 - ✓ 10. Select Injured Employee
- Section IV. ISSUE(S) TO BE MEDIATED

✓ 17. Select "Compensability"

✓ 18. State the following: **"Do any or all of the services provided in the attached medical bill(s) extend or relate to a compensable injury of the injured employee?"**

THIS
QUESTION
MUST BE
ANSWERED AT
THE BRC

- Attach to the DWC- Form045:

- ✓ a copy of the dismissal and this page;
- ✓ medical bills for date(s) of service: **October 28, 2015 through January 6, 2017**; and
- ✓ any other information/documentation required in the form instructions.

Health Care Provider Frequently Asked Questions (FAQ) and Answers

Question: Whom can I call with questions about the dismissal?

Answer: You may contact Medical Fee Dispute Resolution Department via email at MDRIInquiry@tdi.texas.gov. Please include the MFDR tracking number in your email.

Question: What are my options?

Answer: The injured worker has the option to pursue resolution of the compensability issue as instructed above; or provide documents to support that a final decision on compensability was made for the dates of service in dispute.

Question: How can I get a copy of a DWC Form-045?

Answer: Go to www.tdi.texas.gov/wc/forms or call CompConnection at 1-800-372-7713 option 3 if you require a copy by fax or mail.

Question: Whom can I call with questions about completing and filing the DWC Form-045 Request to Schedule a BRC?

Answer: Contact your local field office - <http://www.tdi.texas.gov/wc/dwccontacts.html>

Question: Can I submit a new dispute or DWC Form-060 after resolution of the compensability issue?

Answer: Yes. The medical fee dispute may be submitted for review as a new dispute. The provider should include any new EOBs, and the final decision on compensability for **date(s) of service in dispute**.

Question: Will my new medical fee dispute or DWC Form-060 be denied if it is filed later than one year?

Answer: If the injured worker submits documents to support that a final decision on compensability was made for the **date(s) of service in dispute**, the one-year filing deadline does not apply. The injured worker is responsible for filing the dispute no later than 60-days after it receives a final decision on compensability for the date(s) of service in dispute.